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In reply refer to: L2011-028

September 20, 2011

VIA EMAIL AND U.S. MAIL

Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, California 95814

Re: Fifth Draft Delta Plan

Dear Chairman Isenberg and Members of the Council:

I am writing to express El Dorado Irrigation District's continuing concern with the draft Delta Plan being developed by the Delta Stewardship Council. The fifth draft Plan does show some improvement over previous drafts, particularly in converting what were unauthorized regulatory policies into recommendations. However, the Delta Plan continues to exceed the legislature's mandate in some areas, while slighting that mandate in others. Most importantly for all of us, the Delta Plan seems unlikely to meet the co-equal goals of improved water supply reliability and Delta ecosystem health in its current form.

The District's greatest concern is the vagueness and uncertainty the draft Plan creates about what kind of water supply we can expect in the future. Our area cannot adequately plan and pursue opportunities without some certainty as to our future water supplies.

A leading example of this concern is the recommendation at page 86 (repeated at page 114) that the State Water Resources Control Board (SWRCB) suspend water rights permitting activities until it adopts new or updated flow criteria for the Delta and all high priority tributaries. This sweeping proposal is unnecessary, unwise, and will have unintended consequences. It is unnecessary because the SWRCB is already legally obliged to weigh environmental, habitat, and public trust considerations in its water rights decisions. It is unwise because it elevates flows above all other environmental factors and assumes that flows are a cure-all for the myriad stressors of the Delta environment – many of which receive scant attention in the draft Plan.



Delta Stewardship Council
September 20, 2011
L2011-028

Page 2

To illustrate its unintended consequences, consider the 2008 amendment the SWRCB issued to the District's water rights License 2184, for Weber Reservoir. This license amendment enabled the District to re-purpose an existing water supply formerly distributed through ditches to agricultural customers. Instead, under the amended license and a Warren Act Contract with the United States Bureau of Reclamation, the District releases Weber Reservoir's stored water on a pattern that enhances aquatic wildlife and habitat in Weber Creek and the South Fork American River, and then withdraws the water from Folsom Reservoir for consumptive use, reducing its reliance upon Central Valley Project water. This reoperation enhances the upstream environment and reduces the District's reliance upon CVP water supplies – yet the Fifth Draft Delta Plan recommends a policy that would preclude such a project unless and until the SWRCB establishes flow criteria for the Delta and the American River. That result would serve neither of the co-equal goals.

And once those flow criteria *are* established, how will they be implemented? The fifth draft Plan continues to be evasive in its characterization of upstream areas' diversions, leaving open the (perhaps intended) interpretation that there is no difference between a Delta export diversion and an upstream diversion that “denies” the Delta of water it would assertedly otherwise receive. The possibility that agencies like the District could be assigned equal responsibility for curtailing water supplies to address the Delta's woes is extremely troubling, and problematic for the District's planning efforts.

In the District's Sierra foothill service area, the fractured rock geology precludes reliance upon groundwater for municipal supplies, desalination is obviously not an option, and for decades the District has been fully metered and a statewide leader in water use efficiency and water recycling. Carefully stewarded surface water supplies are our only option.

We take most of our supplies pursuant to very senior water rights. Many of the District's water rights date to the nineteenth century, and for nearly a century now, the District has also relied upon the protection of California's area-of-origin laws (without which the large export projects would never have been built) for both present and planned future water supplies. Presently, the Delta Plan fails to acknowledge these special circumstances, which are largely shared by the District's sister agencies in the Mountain Counties hydrologic region. Instead, the fifth draft Plan continues to propose one-size-fits-all strategies for a vast area reaching far beyond the Delta's legal boundaries or the agencies who divert and export water from it.



Delta Stewardship Council
September 20, 2011
L2011-028

Page 3

Finally, the District is disappointed that the Delta Plan continues to attempt to dictate local water management decisions on everything from rate structures to recycling targets. One prominent example of this approach is the mandate for a Water Supply Reliability Element (with very specific contents) in either the District's Urban Water Management Plan or in the Integrated Regional Water Management Plan (which the District helped spearhead) for the Cosumnes, American, Bear, and Yuba River watersheds. That level of micromanagement from the council simply undercuts local planning hundreds of miles from the Delta. The council should focus its energy instead on integrating the existing efforts of agencies with a role in the Delta, which the legislature saw as the key benefit the Delta Plan could provide for improving our water supplies and the ecosystem health of the Delta.

The District appreciates this opportunity to comment. We respectfully urge the council to fully address our concerns and to carefully consider the Alternate Delta Plan developed by statewide water, business and agricultural interests through the Ag-Urban Coalition. The council members should work with the coalition and its ideas, to identify the best options for meeting the co-equal goals. The District's ratepayers and all Californians are relying upon the council to get this plan right for the sake of our water supply, our economy and our environment.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink, which appears to read "Thomas D. Cumpston".

Thomas D. Cumpston

TDC:pj

cc: Board of Directors
Jim Abercrombie, General Manager
Mary Lynn Carlton, Director of Communications and Community Relations
Brian Poulsen, Deputy General Counsel
Senator Ted Gaines
Assembly Member Alyson Huber
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John Kingsbury, Executive Director, Mountain Counties Water Resources Association